



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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September 5, 2013

To: Supervisor Mark Ridley-Thomas, Chairman  
Supervisor Gloria Molina  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich

From: William T Fujioka  
Chief Executive Officer

## **SACRAMENTO UPDATE - PRISON POPULATION REDUCTION PROPOSALS**

### **Executive Summary**

This memorandum is to provide the Board an analysis of the Senate Democratic prison population reduction plan, an update on the prison proposal introduced by Governor Brown and the Assembly, and a report on both proposals issued by the Legislative Analyst's Office.

### **Background**

As reported on August 29, 2013, the Governor, along with Assembly Speaker Pérez, Senate and Assembly Republican Leadership, and numerous law enforcement and crime victims groups, announced a plan to meet the Federal three-judge panel's prison population reduction order without the early release of any State prison inmates. The proposed plan relies on increased capacity solutions to comply with the court-ordered 137.5 percent threshold by December 31, 2013.

On August 28, 2013, Senator President Pro Tempore Darrell Steinberg, along with members of the Senate Democratic Caucus, expressed significant concerns with the capacity solutions contained in the Governor's and Assembly plan and unveiled a framework for a counter-proposal to meet the court-ordered population cap.

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Both Governor Brown and Assembly Speaker Pérez have issued statements expressing concerns with key elements of the Senate proposal and emphasized the need to focus on immediate capacity solutions to address the prison population reduction order.

### **Senate Democratic Proposal**

**AB 84 (author pending)**, which as amended on September 3, 2013, would authorize each county to establish a Public Safety Performance Incentives Fund (PSPIF) and would authorize the State to allocate funding to county boards of supervisors, chief probation officers, and superior courts to be used to reduce crime and recidivism among criminal offenders through the implementation of a number of measures, such as: 1) evidence-based rehabilitation programs; 2) evidence-based risk and needs assessments; 3) intermediate sanctions including electronic monitoring, home detention and community service; 4) intensive supervision; 5) program evaluation; 6) evidence-based supervision services and programs; 7) evidence-based policing programs; and 8) evidence-based prosecutorial programs and practices that reduce the number of offenders sent to State prison.

AB 84 would require the Department of Finance to work with the California Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the California State Association of Counties and the Administrative Office of the Courts, to develop an allocation formula and recommend a Statewide appropriation of \$200.0 million in FY 2013-14 and FY 2014-15 respectively, and no more than \$300.0 million each year thereafter. The funds would be allocated to counties as follows:

- The chief probation officer would receive an allocation reflecting reductions in the county's admission-to-prison rate achieved for persons subject to felony probation, mandatory supervision and post-release community supervision;
- The board of supervisors would receive an allocation reflecting reductions in the county's admission-to-prison rate for individuals other than those on felony probation, mandatory supervision and post-release community supervision; and
- The superior court would receive five percent of the allocations awarded in each county.

AB 84 would require each county using PSPIF funds to identify and track specific outcome-based measures to be specified and defined by the Administrative Office of the Courts in consultation with the California State Association of Counties and the Chief Probation Officers of California.

Finally, AB 84 would establish the California Public Safety Commission as a permanent State advisory body to be composed of 18 appointed members, which would develop recommendations to the Legislature and the Governor to address prison population management and effective correctional practices. In addition, the Commission would be required to develop recommendations regarding criminal sentences and evidence-based programming for criminal offenders and to develop recommendations related to sentencing credits.

As unveiled at the Senate Democratic press conference last week, the framework of the Senate plan also relies on another key element which is not included in AB 84. This element entails a settlement agreement between the State and the plaintiffs in the legal action resulting in the three-judge panel's order and would include the formation of a State panel of experts which would establish a specific prison population necessary to provide a constitutional level of medical care. The settlement would allow for a three-year extension, until December 2016, for the State to meet the established population cap.

Details of this settlement plan have not been released although lawyers for the plaintiffs have indicated their willingness to discuss such a plan.

AB 84 passed the Senate Budget Committee by a vote of 11 to 5 on September 4, 2013. This measure now proceeds to the Senate Floor.

### **Governor's Proposed Prison Reduction Plan**

**SB 105 (Emmerson)**, which as amended on September 3, 2013, would authorize the California Department of Corrections and Rehabilitation to enter into agreements with public and private, State and out-of-State facilities to house State prison inmates and would appropriate \$315.0 million in FY 2013-14 to fund the capacity expansion in order to comply with the court-ordered population cap.

SB 105 passed the Assembly Budget Committee by a vote of 23 to 0 on August 29, 2013. This measure is currently pending on the Assembly Floor.

### **Legislative Analyst's Office Report**

In preparation for upcoming committee hearings, on September 4, 2013, the Legislative Analyst's Office (LAO) released a report providing an overview and general analysis of both the Governor's proposed plan and the Senate Democratic proposal.

The Legislative Analyst's Office highlights a number of concerns with the Governor's proposed plan and states that while the Governor's plan would result in short-term compliance with the court order, it would require additional solutions by FY 2015 16. The LAO also notes that the Governor's proposal to develop a plan for long-term solutions by January 2015 may not be soon enough. The LAO further states that the contracting provisions in the Governor's plan could result in costs that are higher than estimated by the Administration and could still result in early releases if logistical difficulties prevent the Administration from transferring the required number of inmates to alternative custody settings by the December 31, 2013 deadline.

Similarly, the Legislative Analyst's Office cites concerns with the Senate Democratic proposal. According to the LAO, the Senate plan lacks key details and would not meet the current population cap by the court-ordered deadline. However, the LAO notes that a settlement with plaintiffs, as proposed in the Senate plan, would potentially extend the deadline, but it is unclear if and when such a settlement could be reached. The LAO believes that success of the Senate plan and long-term prison population impacts are subject to significant uncertainty and that it could take five or more years to achieve its full effect on the prison population. Finally, the long-term fiscal effect on the State is uncertain, but the LAO estimates that there could be a potential for savings dependent on how the Senate Democratic plan is implemented.

Overall, the Legislative Analyst's Office recommends that the Legislature consider a long-term approach to complying with the court order while taking into account potential impacts to public safety and the impact on local governments. Specifically, the LAO recommends the Legislature keep in mind that short-term options are limited but that a range of long-term solutions could be considered including opportunities to reduce prison admissions and sentence lengths, reduce recidivism, and increase prison capacity.

The LAO report is available at: <http://www.lao.ca.gov/laoapp/main.aspx>.

We will continue to keep you advised.

WTF:RA  
MR:KA:ma

c: All Department Heads  
Legislative Strategist